

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-15-01)
AUGUST 24, 2015

A report to the Flathead County Planning Board and Board of County Commissioners for a text amendment to the Flathead County Zoning Regulations. The proposed amendment would add new use districts to Sections 3.45, 3.46, 3.47, 3.48 and 3.49 to the FCZR. The proposal would also include cross referencing in other sections of the FCZR including; amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning text amendment on September 10, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Avenue West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning text amendment.

Documents pertaining to the zoning text amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning text amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the review of the proposal on September 9, 2015 by the Flathead County Planning Board.

B. Commission

This space will contain an update regarding the review of the proposal by the Flathead County Board of Commissioners.

II. GENERAL INFORMATION

A. Applicant/Petitioner

Flathead County Planning Board

B. Sections Proposed for Amendment

The amendment is addressed as follows:

- i. A summary of the general character of and reason for the proposed amendment;
- ii. Listing of the specific section being amended and the actual language of the proposed amendment. Under "Proposed amendment" the language is shown as it appears in the current regulations, with proposed additions *italicized* and shaded gray and proposed deletions ~~stricken~~ and shaded gray.

C. Criteria Used for Evaluation of Proposed Amendment:

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

D. Compliance With Public Notice Requirements:

Legal notice of the Planning Board public hearing on this application was published in the August 23, 2015 edition of the Daily Interlake. Public notice of the Board of County Commissioners public hearing regarding the zoning text amendment will be physically posted within the County according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning text amendment.

E. Agency Referrals

Referrals were sent to the following agencies on July 9, 2015:

- Bonneville Power Administration
- Department of Natural Resources and Conservation
- Whitefish Rural Fire District
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Whitefish High School District
- Whitefish School District
- City of Whitefish Planning Department
- Montana Department of Transportation
- Montana Fish Wildlife and Parks

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report four written comments and several phone inquiries have been received regarding the zoning text amendment. Comments previously received, prior to the creation of the FZTA-15-01 file, have been reviewed by the Planning Board. Comments addressing the zoning text amendment discuss concerns with traffic at the intersection of Highway 40 and Whitefish Stage and how a precedent has been set with commercial on the property to the south of Highway 40. Additional comments discuss being stuck in limbo and they would like to see commercial development south of Highway 40. Comments also indicate concern with the proposed setbacks and height restrictions for the BMRR and BMV zoning use districts. And one comment asks about the change in zoning on Houston Drive from R-1 to R-2.

It is anticipated any member of the public wishing to provide comment on the proposed text amendment will do so at the Planning Board public hearing scheduled for September 9, 2015. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated July 13, 2015.
- Montana Fish, Wildlife and Parks
 - Comment: “Fish Wildlife and Parks recommends the following design standards for vegetated buffers and building setbacks: Apply the following vegetated buffers and building setbacks:
 - Rivers: A minimum of 250 feet of vegetated buffer, plus 50 additional feet of building setback. Total building setback equals at least 300 feet from each side of a river.
 - Perennial Streams: A minimum of 150 feet of vegetated buffer, plus 50 additional feet of building setback. Total building setback equals at least 200 feet from each side of a perennial stream.
 - Other Water Bodies: A minimum of 100 feet of vegetated buffer, plus 30 additional feet of building setback. Total building setback equals at least 130 feet from the boundary of a wetland or pond, or the ordinary high-water mark of an intermittent stream, lake, or reservoir. These recommendations are very different from the standards recommended in the proposed zoning districts. There is not a "one size fits all" setback or vegetated buffer; however, there are few instances where a 20-ft setback is sufficient to protect water quality and aquatic resources.” Letter dated July 30, 2015.
- City of Whitefish Planning Department
 - Comment: “These comments relate to the new Whitefish Rural Zoning District and associated new zones that are proposed to be created by Flathead County. We commend the county’s efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who’s master development plan is tied in with the former Whitefish districts you are replacing.

“As far as the specifics of the new Rural Whitefish Zoning District and where the zoning is applied, we also commend the county for applying county zones that most closely mirror the former Whitefish zoning districts over the zones they are replacing. The only concern we have is the application of 2.5 acre and 5 acre zoning to areas around Lost Coon Lake and Karrow Avenue that previously had 15 acre zoning. Density smaller than 10 acres/dwelling unit on the east side of Karrow from just south of Lund Lane to where Karrow would intersect with Highway 40 if Highway 40 were extended due west from its intersection with Highway 93 is contrary to Whitefish’s 2007 City County Growth Policy Future Land Use Map, which calls for a Rural

Future Land Use with a 10 acre minimum. The City strongly objects to any changes in zoning inconsistent with our Growth Policy. That is a significant density change, and we hope that the county reconsiders that. If the Planning Board chooses to proceed, we hope you properly vet the proposed changes with the neighborhood affected. Several years back we had a very large turnout (Wendy said 50+ people) in opposition of a proposed change for an island of lots on Lost Coon Lake from 15 acre to 2.5, and it was denied by Council. Both the property owners whose zoning is being changed and neighbors within 300' of the change areas should all be notified by mail, told specifically of what the change will be, and told the dates of the public hearings. I also recommend that you hold a work shop on the change in the Whitefish area as a courtesy to those affected prior to the public hearing, perhaps at the nearby Montana Coffee Traders Grange Hall. Email dated July 14, 2015.

IV. EVALUATION OF PROPOSED AMENDMENT

A. General Character of and Reason for Amendment

The proposal would create five new zoning districts within the Flathead County Zoning Regulations (FCZR). The new districts are intended to replace Whitefish zones that were in place during the Interlocal agreement. The five districts would be added to Chapter 3 and would include;

- 3.45 B-2A Secondary Business,
- 3.46 BMRR Big Mountain Resort Residential,
- 3.47 BMV Big Mountain Village,
- 3.48 BSD Business Service District, and
- 3.49 RR-1 Low Density Resort Residential.

The proposal would also include cross referencing in other sections of the FCZR, amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR.

B. Proposed Amendment

The proposed amendment would add new use districts to Sections 3.45, 3.46, 3.47, 3.48 and 3.49 to the FCZR:

SECTION 3.45 B-2A SECONDARY BUSINESS

3.45.010 Definition:

The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.

3.45.020 Permitted Uses (B-2A):

1. Antique, gift and card retail sales.
2. Automobile (new and used) and accessory sales.
3. Automobile repair shop.
4. Automobile service station.
5. Beauty Salon and Barbershop.
6. Bed and breakfast establishment.
7. Boat and RV sales, new and used.
8. Boat and RV repair shop
9. Bowling alley.
10. Bus depot.
11. Churches and other places of worship.
12. Clinic, medical and dental.
13. Commercial caretaker's facility in a detached accessory building in conjunction with a business.
14. Convenience store.
15. Daycare centers (13 or more individuals).
16. Dwelling, single family.
17. Feed, seed and farm supply.
18. Financial institution.
19. Food store, supermarket, and delicatessen.
20. Frozen food lockers, not including slaughtering.
21. Funeral Home and crematorium.
22. Heavy equipment sales, rental and service.
23. Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.
24. Hotel and motel (including restaurants, lounges or bars integral to the facilities).
25. Household appliance and electronics store.
26. Laundromat or dry cleaner.
27. Lumber yard, building supply.
28. Military surplus store.
29. Pack-n-ship.
30. Professional offices.
31. Public building.
32. Recreational facility, high impact.
33. Recreational facility, low impact.
34. Restaurant.
35. Small animal veterinarian clinic (no outside activity).
36. Theater.
37. Vendor.
38. Wholesale trade and warehousing.

3.45.030 Conditional Uses (B-2A):

1. Accessory Apartment.
2. Amusement park or zoo.
3. Animal hospital.
4. Any new building greater than 15,000 square feet, existing buildings where an addition would cause the total footprint to be 15,000 square feet or greater, and additions to buildings where the footprint already is 15,000 square feet or greater.
5. Bar, lounge and tavern.
6. College, business school, trade school, music conservatory, dance school.
7. Community residential facility (See Chapter V- Performance Standards and Chapter VII- Definitions). **
8. Light assembly and manufacturing.
9. Manufactured home park.
10. Microbrewery.
11. Mini-storage, RV storage.
12. Recreational vehicle park.
13. Truck stop.

**** Administrative Conditional Use Permit, 8 or fewer.**

3.45.040 Bulk and Dimensional Requirements (B-2A):

1. Minimum Lot Area: Not Applicable.
2. Minimum Lot Width: Not Applicable.
3. Setbacks:
 - A. Minimum Yard Requirements for Structures:

Front:	20 feet.
Side:*	0 feet each.
Side Corner:	20 feet.
Rear:*	0 feet.
* 20 foot setback when abutting a residential district.	
 - B. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.
 - C. Increase yard requirements as follows when property fronts:

MDT Maintained/County collector road:*	10 feet.
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4. Maximum Height: 35 feet.

5. *Permitted Lot Coverage:* *Not Applicable.*
6. *Maximum Fence Height:*

<i>Front:</i>	<i>4 feet.</i>
<i>Side:</i>	<i>6 feet.</i>
<i>Rear:</i>	<i>6 feet.</i>
7. *Off-Street Parking:* *See Chapter VI-Parking and Loading.*

SECTION 3.46 *BMRR BIG MOUNTAIN RESORT RESIDENTIAL*

3.46.010 *Definition:*

The BMRR district is intended to provide for lower urban densities with little or no commercial activity. Uses within the resort residential will include nightly rentals, timesharing, interval ownerships, vacation clubs, or other multiple ownership residential uses.

3.46.020 *Permitted Uses (BMRR):*

1. *Bed and breakfast establishment.*
2. *Home occupation (See Chapter V – Performance Standards and Chapter VII - Definitions).*
3. *Dwelling, single family.*
4. *Dwelling, duplex.*
5. *Dwelling, multi-family.*
6. *Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.*
7. *Public building.*
8. *Park and publicly owned recreational facility.*
9. *Recreational facility, high impact.*
10. *Recreational facility, low impact.*
11. *Ski area and support facilities.*

3.46.030 *Conditional Uses (BMRR):*

1. *Bar, lounge and tavern.*
2. *Churches and other places of worship.*
3. *Emergency medical clinic.*
4. *Information/reception center.*
5. *Lodge and fraternal and social organization, provided that any such establishments shall not be conducted primarily for gain.*
6. *Public utility service installation.*
7. *Resort area equipment maintenance facilities.*

8. Restaurant.
9. School, primary and secondary.

3.46.040 Bulk and Dimensional Requirements (BMRR):

1. **Minimum Designation Size:** As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.

2. **Minimum Lot Area:** As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.

3. **Minimum Lot Width:** Not Applicable.

4. **Setbacks:**

A. **Minimum Yard Requirements for Structures:**

Front: 20 feet.
Side: 10 feet each.
Side Corner: 10 feet.
Rear: 20 feet.

B. **Minimum Yard Requirements for Townhouses:**

Side: 5 feet each.
Side Corner: 5 feet.
Rear: 15 feet.

C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

D. Increase yard requirements as follows when property fronts:
MDT Maintained/County collector road:* 10 feet.

5. **Maximum Height:**

One through Fourplex: 28 feet (to eave).
Fiveplex or Greater: 35 feet (to eave).

6. **Permitted Lot Coverage:** 40%.

7. **Off-Street Parking:** See Chapter VI-Parking and Loading.

SECTION 3.47 BMV BIG MOUNTAIN VILLAGE

3.47.010 Definition:

The BMV district is intended to provide a regulatory framework for primary resort residential land uses at mixed densities, and year round resort uses including hotels, resort condominiums and similar uses oriented towards tourism and resort businesses. Specific uses provided for include convention facilities, bars, lounges, restaurants, and limited resort oriented retail and commercial uses intended primarily for the convenience of guests of the Big Mountain Resort. The Big Mountain village is a densely compact resort core area characterized mainly by mixed and multiple use buildings and complexes. Retail, commercial services, and dining and drinking establishments will generally be located at street level, with hotel/residential uses above, and parking typically below street level.

3.47.020 Permitted Uses (BMV):

1. *Bar, lounge and tavern.*
2. *Conference facilities.*
3. *Dwelling, single family.*
4. *Dwelling, duplex.*
5. *Dwelling, multi-family.*
6. *Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.*
7. *Emergency medical clinic.*
8. *Financial institution.*
9. *Health studio and spa.*
10. *Hotel, motel.*
11. *Professional offices.*
12. *Public building.*
13. *Park and publicly owned recreational facility.*
14. *Recreational facility, high impact.*
15. *Recreational facility, low impact.*
16. *Restaurant.*
17. *Retail sales and service.*
18. *Ski area and support facilities.*
19. *Theater.*

3.47.030 Conditional Uses (BMV):

1. *Churches and other places of worship.*

2. *Public utility service installation.*
3. *Resort area equipment maintenance facilities.*
4. *School, primary and secondary.*

3.47.040 Bulk and Dimensional Requirements (BMV):

1. **Minimum Lot Area:** *As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.*
2. **Minimum Lot Width:** *Not Applicable.*
3. **Setbacks:**
 - A. **Minimum Yard Requirements for Structures:**

<i>Front:</i>	<i>0 feet.</i>
<i>Side: *</i>	<i>0 feet each.</i>
<i>Side Corner:</i>	<i>0 feet.</i>
<i>Rear: *</i>	<i>0 feet.</i>
<i>* 15 foot setback when abutting a residential district.</i>	
 - B. *A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.*
 - C. *Increase yard requirements as follows when property fronts:*

<i>MDT Maintained/County collector road: *</i>	<i>10 feet.</i>
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4. **Maximum Height:** *39 feet (to eave).*
5. **Permitted Lot Coverage:** *Not Applicable.*
6. **Off-Street Parking:** *See Chapter VI-Parking and Loading.*

SECTION 3.48 BSD BUSINESS SERVICE DISTRICT

3.48.010 Definition:

The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as

a strip. Landscaping will be extensive with good quality and effective screening and buffering.

3.48.015 *Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review. The site plan, vicinity map and building concepts will address each of the following:*

- 1. The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.*
- 2. The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.*
- 3. The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.*
- 4. Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.*

3.48.017 *Implementation of Site Plan and Vicinity Map:*

- 1. Once the site plan and vicinity map have been adopted, they shall be considered zoning and shall serve as the guidelines for the development.*
- 2. Prior to any site development, a detailed site plan shall be submitted to the zoning administrator to demonstrate compliance with the approved site plan and vicinity map. Any desired subsequent changes shall be submitted for approval as an amendment to the site plan.*
- 3. Minor deviations to the site plan shall be allowed which do not involve more than ten percent (10%) of the building site for a single building. This would include, but is not limited to, the location and/or expansion of the building, parking lot location, signage, number of parking spaces and landscaping. Minor deviations to the site plan shall be reviewed and approved by the zoning administrator.*
- 4. Substantial modifications to the site plan will be required to be reviewed and approved by the County Commissioners. Substantial*

changes would include, but not be limited to, an increase in the number of buildings, major changes in access or circulation, an increase in building size by more than ten percent (10%), major changes to signage and major changes to landscaping design and location.

3.48.020 Permitted (BSD):

- 1. Agricultural/horticultural/silvicultural use.*
- 2. Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant*
- 3. Animal hospital, veterinary clinic.*
- 4. Contractors' storage yard and building supply outlet.*
- 5. Dance, drama, and music school.*
- 6. Dwelling, single family.*
- 7. Farm equipment sales.*
- 8. Feed, seed and farm supply, including grain elevators.*
- 9. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
- 10. Homeowners park.*
- 11. Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.*
- 12. Livestock.*
- 13. Nursery, landscaping materials.*
- 14. Parcel delivery service.*
- 15. Park and publicly owned recreational facility.*
- 16. Personal services with incidental retail sales.*
- 17. Print and copy shop.*
- 18. Produce stand.*
- 19. Professional offices.*
- 20. Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).*
- 21. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines, (no outdoor storage permitted).*
- 22. Riding academy, rodeo arena.*
- 23. Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).*
- 24. Stable, public and private.*
- 25. Wholesale trade and warehousing, including offices and showrooms.*

3.48.030 Conditional Uses (BSD):

1. Accessory apartments.
2. Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.
3. Churches and other place of worship.
4. College, business school, trade school.
5. Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
6. Convention hall facility.
7. Day care center.
8. Kennel.
9. Mini-storage.
10. Research laboratory and institution.
11. When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.

**Administrative Conditional Use Permit (See Section 2.06.045)*

3.48.040 Bulk and Dimensional Requirements (BSD):

1. Minimum District Area: 5 acre.
2. Minimum Lot Area: 1 acre.
3. Minimum Lot Width: 125 feet.
4. Setbacks:
 - A. Minimum Yard Requirements for Structures:

Front:	30 feet.
Side:	10 feet each.
Side Corner:	30 feet.
Rear:	15 feet.
 - B. When a property abuts the following features, the abutting setback shall be increased to the following:

Agricultural – use or zone:	30 feet.
Residential – use or zone:	30 feet.
Stream – high water mark:	20 feet.

5. *Maximum Height:*
Principal Structures: 35 feet.
Accessory Structures: 24 feet.
6. *Permitted Lot Coverage:* 40%.
7. *Maximum Fence Height:*
Front: 4 feet.
Side: 6 feet.
Rear: 6 feet.
8. *Off-Street Parking:* See Chapter VI – Parking and Loading.

3.48.050 *Additional Design Standards (BSD):*

1. *One commercial use permitted per gross acre. Multiple commercial uses should cluster development to include both shared parking areas and internal road access. Buildings shall be grouped into localized areas and shall not be developed in a linear fashion.*
2. *Clustering:*
 - A. *Clustering of uses includes incorporation of common shared areas such as courtyards to create central nodes of business/development as opposed to linear development.*
 - B. *Clustering should include shared access, parking, landscaping, with the overall development designed to protect surrounding properties from adverse impacts.*
 - C. *For the purpose of clustering, the site will be developed as one lot. Property setbacks for commercial uses shall not apply except for separation from residential uses. This allows for cohesive development on multiple properties developed in conjunction with an overall development theme or business park plan.*
3. *Landscaping:*
 - A. *Landscape design shall be in accordance with the concept of a business park. A combination of landscape materials should be arranged in a harmonious manner as an integral part of the project design to enhance building design, public view and interior spaces and provide buffers and transitions, as appropriate.*

B. Landscaping shall comply with Section 5.05 and parking lot landscaping shall comply with Section 6.13.010(2).

C. Exposed utilities, storage areas, machinery, installations, service and loading areas and similar accessory areas and structures shall be set back to the primary structure requirements or screened to minimize the loss of views, privacy and the general aesthetic value of surroundings.

4. Signage:

A combination of natural materials and colors should be arranged in a harmonious manner that complements the overall design of the site and does not create visual clutter, distractions for passing motorists or the obstruction of important architectural or landscaping features.

SECTION 3.49 RR-1 LOW DENSITY RESORT RESIDENTIAL

3.49.010 Definition:

The RR-1 district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide a low density setting for secondary residential resorts in proximity to the City of Whitefish.

3.49.020 Permitted Uses (RR-1):

1. Bed and breakfast establishment.
2. Class A manufactured home.
3. Day care home.
4. Duplex.
5. Dwelling, multi-family (4 or fewer units).
6. Dwelling, single family.
7. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).
8. Park and publicly owned recreational facility.
9. Public utility service installation (a minimum of five feet of landscaped area shall surround each building or structure).
10. Tourist accommodation units (4 or fewer units).

3.49.030 Conditional Uses (RR-1):

1. Accessory apartments.
2. Boarding house.
3. Boat launching ramp and dock (commercial).
4. Caretaker's facility.*

5. Churches and other place of worship.
6. Community residential facilities, Class I.
7. Convention hall facility.
8. Day care center.
9. Dwellings, cluster development (See Chapter IV – Conditional Use Standards).
10. Dwelling, multi-family (5 or more units).
11. Golf course.
12. Guest house.
13. Health club.
14. Manufactured home park (5 acre minimum size).
15. Marina (commercial).
16. Professional offices.
17. School, primary and secondary.
18. Tourist accommodation units (5 or more units).

**Administrative Conditional Use Permit (See Section 2.06.045)*

3.49.040 Bulk and Dimensional Requirements (RR-1):

7. Minimum District Area: 1 acre.
8. Minimum Lot Area: Not Applicable.
9. Minimum Lot Width: Not Applicable.
10. Maximum Density: 10 dwelling units per acre.
11. Setbacks:
 - A. Minimum Yard Requirements for Principal Structures:

Front:	15 feet.
Side:	10 feet each.
Side Corner:	15 feet.
Rear:	20 feet.
 - B. Detached Accessory Structures:

Front:	15 feet.
Side:	6 feet.
Side Corner:	6 feet each.
Rear:	6 feet.
 - C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.
 - D. Increase yard requirements as follows when property

fronts:

*MDT Maintained/County collector road:** 25 feet.

12. Maximum Height:

Principal Structures: 35 feet.

Accessory Structures: 24 feet.

13. Permitted Lot Coverage: 35%.

14. Maximum Fence Height:

Front: 4 feet.

Side: 6 feet.

Rear: 6 feet.

7. Off-Street Parking: See Chapter VI-Parking and Loading.

The proposal would also include cross referencing in other sections of the FCZR, amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR as follows:

3.01.020 For the purpose of applying these regulations to the zoned areas of Flathead County, said areas are hereby divided into the following use districts:

District	Title	Minimum Lot Size
AG-80	Agricultural	80 acres
AG-40	Agricultural	40 acres
AG-20	Agricultural	20 acres
SAG-10	Suburban Agricultural	10 acres
SAG-5	Suburban Agricultural	5 acres
R-2.5	Rural Residential	2.5 acres
R-1	Suburban Residential	1 acre
R-2	One-Family Limited Residential	20,000 sq. ft.
R-3	One-Family Residential	10,000 sq. ft.
R-4	Two-Family Residential:	
	Single-family	6,000 sq. ft.
	Duplex	7,500 sq. ft.
R-5	Two-Family Residential	5,400 sq. ft.
RC-1	Residential Cluster	Max. Density
		1 du/acre
	Detached Dwelling Unit	4,500 sq. ft.
	Attached Dwelling Unit	2,500 sq. ft.
RA-1	Residential Apartment	7,500 sq. ft.
RR-1	Low Density Resort Residential	District,
		Min. 1 acre
B-1	Neighborhood Business	7,500 sq. ft.
B-2	General Business	7,500 sq. ft.
B-2A	Secondary Business	Not applicable
B-2HG	General Business Highway Greenbelt	See Section 3.44
B-3	Community Business	District,

BR-2	Resort Business	Min. 10 acres District, Min. 20 acres
BR-4	Resort Business	District, Min. 10 acres
B-5	Tourist Retail	District, Min. 5 acres
B-6	Resort Business	15,000 sq. ft.
B-7	Rural Area Commercial	District, Max. 240,000 sq. ft.
BMRR	Big Mountain Resort Residential	District, As prescribe by the Big Mountain Plan Land Use Plan
BMV	Big Mountain Village	District, As prescribe by the Big Mountain Plan Land Use Plan
BSD	Business Service District	1 acre
CCC-1	Commercial Country Corner – 1	District, Max. 240,000 sq. ft.
CCC-2	Commercial Country Corner – 2	District, Max. 400,000 sq. ft.
CVR	Commercial Village Resort	2,500 sq. ft.
I-1	Light Industrial	7,500 sq. ft.
I-1H	Light Industrial – Highway	1 acre
I-2	Heavy Industrial	7,500 sq. ft.
P	Public	Not applicable
PUD	Planned Unit Development	See Section 3.31
SC	Scenic Corridor	See Section 3

- 3.03.020 10. In R-2.5 (Rural Residential), R-1 (Suburban Residential), R-2 (One Family Limited Residential), R-3 (One Family Residential), R-4 (Two Family Residential), R-5 (Two Family Residential), RC-1 (Residential Cluster), ~~and~~ RA-1 (Residential Apartment) ~~and RR-1 (Low Density Resort Residential)~~ zoning or use districts, sand and gravel extraction and asphalt and concrete batch plant uses are prohibited. In other residential districts, as defined herein, sand and gravel extraction and asphalt and concrete batch plant uses shall be conditioned under the provisions of Sections 2.06 and 4.10, provided however, that if the negative impacts (including those listed in Section 2.06.080.1.D) on the surrounding area cannot be reasonably mitigated, all sand and gravel extraction and associated operations, or processing of sand and gravel, or asphalt and/or concrete batch plant uses, may be prohibited.

SECTION 4.04 CARETAKER'S FACILITY IN AG, SAG, ~~AND R-1~~, AND ~~RR-1~~ DISTRICTS

- 4.04.010 A caretaker's facility is a dwelling, which is constructed and designed to provide living quarters for caretakers or servants, and is clearly subordinate to the principal use with regard to size and location. Caretaker's facilities are allowed as a conditional use in the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, ~~and~~ R-1 ~~and RR-1~~ districts subject to the following conditions:

- 4.04.010 2. In SAG-5, R-2.5, ~~and~~ R-1 ~~and RR-1~~ districts the parcel on which the caretaker's facility is located shall be double the size of the underlying district minimum lot size.

SECTION 4.06 COMMERCIAL CARETAKER'S FACILITY IN B-2, B-2HG, B-3, ~~BSD~~, I-1, I-1H AND I-2 DISTRICTS

- 4.08.040 In all residential (AG, SAG, R, and RA) and resort (RC, ~~RR~~, BR, B-5, and B-6) districts:
- 5.05.010 All sites in a commercial ("B" and "BR" designations) district having a common boundary with a residential district ("R", "RA", ~~or~~ "RC", or "~~RR~~" designation) shall erect and maintain a view-obscuring fence or dense coniferous hedge along such common boundary. Fences shall be six (6) feet high. Hedges shall obtain a height of at least six (6) feet within three (3) years. Where the wall of a building is on such common boundary, no separate wall, fence, or hedge is required along the portion of the common boundary occupied by the building.
- 5.05.020 All sites in an industrial district ("I" designation) having a common boundary with a residential district ("R", "RA", ~~or~~ "RC", or "~~RR~~" designation) shall have planted and maintained along such common boundary a view-obscuring coniferous greenbelt of shrubs and trees at least eight (8) feet in height at maturity and at least ten (10) feet in width for screening purposes and controlling access.
- 5.11.040 3. Permitted signs in ~~BMRR~~, RC-1, RA-1, ~~RR-1~~, CVR, and P districts shall be as follows:
4. Permitted signs in B-1, B-2, ~~B-2A~~, B-2HG, BR-2, B-3, BR-4, B-5, B-6, ~~and~~ B-7, ~~BMV, and BSD~~ districts shall be as follows (see additional requirements for B-2HG in Section 3.44):

SECTION 6.13B, ~~BMV~~, ~~BMRR~~, BR, ~~BSD~~, CVR, CCC, I, ~~AND~~ P, ~~AND RR~~ PARKING REQUIREMENTS SPECIAL CONDITIONS

C. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The Growth Policy does not provide specific guidance related to accessory dwelling units.

- **G.6** – *Adequate commercial land that is safely accessible and efficiently serviceable.*
 - **P.7.1** – *Determine commercial development features that support the seven elements of the Flathead County Vision detailed in Chapter 1: The Character of Flathead County.*
 - Response: The proposed amendment would add new commercial zoning use districts to the zoning regulations. The new commercial zones would allow for different mixes of commercial and industrial uses which has the potential to promote a diverse economy.

- **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
- **G.16** – *Safe housing that is available, accessible, and affordable for all sectors of the population.*
 - Response: The proposed new zoning districts would allow for new residential districts and could potentially protect the rights of landowners.
- **G.36** – *Protect water quality in lakes, rivers, aquifers and streams from existing and potential pollution sources.*
- **G.39** – *Preserve and protect wetlands and riparian areas to prevent degradation of natural resources, including but not limited to water quality and critical wildlife habitat.*
- **G.41** – *Promote the preservation of critical fish and wildlife habitat and preserve the area's unique outdoor amenities and quality of life.*
 - **P.41.3** – *Encourage maintaining and managing riparian areas in accordance with Montana state and federal laws.*
 - Response: Comments received from Montana Fish, Wildlife & Parks indicate that the proposed setbacks from streams, rivers and other bodies of water are inadequate to protect wildlife and riparian areas. Flathead County has other regulations in addition to zoning that would serve to protect wildlife habitat, riparian boundaries and lakes. Lake and lakeshore protection regulations would require permitting for any construction within 20 feet of a lake, floodplain regulations would require permitting for any development in the floodplain and subdivision regulations could require no build zones in riparian boundaries.
- **G.49** – *Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and services that protect and preserve the health, safety, and welfare of the natural and human environment.*
 - **P.49.2** – *Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.*
 - Response: An agency referral was sent to the City of Whitefish regarding this proposal and the City provided comment. Discussion on the City of Whitefish comment can be found in Sections iii.3 and iv below.
 - **P.49.3** – *Protect and preserve the many unique opportunities present in the natural and human environment.*
 - Response: Comments received from Montana Fish, Wildlife & Parks indicate that the proposed setbacks from streams, rivers

and other bodies of water are inadequate to protect the natural environment.

Finding #1: The proposed amendment appears to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposal would add new commercial and residential use districts, other County regulations would serve to protect lakes, streams, wildlife habitat and riparian boundaries, the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.

ii. Whether the proposed text amendment is designed to:

1. Secure safety from fire and other dangers;

The proposed text amendment to add new zoning use districts does not appear to have a negative impact on safety from fire and other dangers because the new districts would include bulk and dimension requirements. The bulk and dimensional requirements within the zoning designations are generally established to secure safety from fire and other dangers.

The use districts are intended to be used in areas within the vicinity of Whitefish and on Big Mountain. Therefore, they will likely be applied to properties within the Whitefish Rural Fire District and the Big Mountain Fire District. The Whitefish Rural Fire Department and Big Mountain Fire District currently respond and would continue to respond in the event of a fire or medical emergency.

Amendments for cross referencing to the sections containing use districts, commercial caretaker's facility, day care centers, signs, parking and greenbelts will likely not impact safety from fire and other dangers. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts has the potential to secure safety from fire and other dangers because allowing a caretaker's facility on smaller lots has the potential to double the density of the RR-1 zone. The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited would likely help secure future RR-1 zones from other dangers. Gravel pits can be a hazardous place if people are not alert because of traffic, the possibility of uneven surfaces or debris. The proposed text amendment will likely secure safety from fire and other dangers.

Finding #2: The proposed text amendment appears to not have a negative impact on safety from fire and other dangers because the use districts are intended for areas adjacent to Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, the fire districts would provide services in the event of a fire, not allowing a caretaker's facility on smaller lots than double the minimum lot size within RR-1 zone would eliminate the potential for doubling the density of the RR-1 zone and prohibited gravel pits would likely help secure future RR-1 zones from other dangers.

2. Promote public health, public safety, and general welfare;

Public health and general welfare are promoted through the imposition of zoning due to the creation of minimum lot sizes, setbacks, height restrictions, and lot coverage requirements. As previously stated, most of the district will likely be applied to areas within the Whitefish Rural Fire District and the Big Mountain Fire District. The Whitefish Rural Fire Department and Big Mountain Fire Department currently respond and would continue to respond in the event of a fire or medical emergency.

The proposed zones would require a greater setback from collector and MDT maintained roads. BSD, BMV and B-2A zones would require greater setbacks from residential uses, the greater setbacks could help promote general welfare in residential zones, as commercial and industrial uses will not be located right on a property line when adjacent to a dwelling. The proposed districts will likely be placed in areas which are located within the Whitefish and Big Mountain Fire Districts. Conditional use permit (CUP) review criteria includes impacts of a proposed use based on the attributes of the land and area in which it is proposed. This review ensures mitigation of potential negative impacts and may result in denial if a property is not appropriate based on the criteria for review or if the applicant is unable to adequately demonstrate compliance with the review criteria.

Adding the BMV, BMRR, RR-1 and BSD zones to Section 6.13 and requiring special parking conditions would serve to lessen the impact those zones would have on public safety. Section 6.13.010(1) states, *“Adequate drainage so that injuries will not be caused to adjacent properties nor will water drain across a public walk.”* If snow melt drains on to a sidewalk in winter and refreezes it has the potential to impact public safety.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker’s facility, day care center, signs and greenbelts would likely not impact public health, public safety, and general welfare. The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited would likely promote public health. As previously stated, gravel pits can be a hazardous place if people are not alert because of traffic, the possibility of uneven surfaces or debris. Requiring double the size of the underlying district for caretaker’s facility in RR-1 districts has the potential to improve general welfare because allowing a caretaker’s facility on smaller lots has the potential to double the density of the RR-1 zone.

Finding #3: The proposed amendment to the Flathead County Zoning Regulations was found to have minimal impact on public health, public safety and general welfare because the zoning use districts are intended to be located near the City of Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, many of the zoning use districts would require greater setbacks from county collectors and MDT maintained roads, a greater

setback would be required from residential uses and a CUP would be required for uses that could be deleterious to the public health or safety.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

As previously stated, the new zoning use district are intended for areas around the City of Whitefish. The Whitefish area has a comprehensive road network that includes State and Federal Highways and County Collectors these include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Blanchard Lake Rd, Monegan Rd, Dillon Rd, Voerman Rd, and Northwoods Dr. No comments were received from MDT and comments received from the Flathead County Road and Bridge Department indicate no concern with the proposal. It is anticipated that the proposed zoning use districts would not hinder the facilitation of adequate transportation.

According to the Flathead County 2014 Statistical Report of Schools, Whitefish Elementary Schools have seen a decrease of 9% in student enrollment over the last ten years. Whitefish High School has seen a decrease of 31% in student enrollment over the last ten years. Additionally, no comments were received from the Whitefish School District or the Whitefish High School District. Any development as a result of the implementation of these zoning use districts would likely not impact Whitefish area schools.

The proposed zones have similar uses and densities to that which was previously allowed under the City of Whitefish zoning. Because the densities and uses would be similar to what previously existed in Rural Whitefish it is anticipated that the proposal could facilitate adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, parking, zones in which gravel pits are not permitted, signs and greenbelts would likely not impact transportation, water, sewerage, schools, parks, and other public requirements. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts has the potential to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because allowing a caretaker's facility on smaller lots has the potential to double the density of the RR-1 zone.

Finding #4: The proposed amendment was found to have minimal impact on transportation, water, sewerage, schools, parks and other public requirements because the Flathead County Road and Bridge Department had no concerns with the proposal, no comment was received from MDT, similar uses and densities to what was previously allowed under Whitefish zoning would be allowed and there has been a decrease in school enrollment for Whitefish schools.

iii. In evaluating the proposed text amendment(s), consideration shall be given to:

1. The reasonable provision of adequate light and air;

The proposed B-2A would require setbacks of 20 feet for front and side corner and 0 feet for side and rear property lines on all structures, 20 feet when abutting a residential district and 20 feet from streams, rivers and unprotected lakes. The B-2A zone also requires an additional 10 foot setback from collectors or MDT maintained road and has 35 feet maximum building height.

The proposed BMRR would require setbacks of 20 feet for front and rear property lines and 10 feet from the side and side corner on most structures. The setbacks for townhomes would be 6 feet from side, side corners and rear property lines. The BMRR would require a 20 foot setback from streams, rivers and unprotected lakes and an additional setback of 10 feet when property fronts a county collector or MDT maintained road. The BMRR would also require a 28 feet maximum building height for a one through fourplex and 35 feet for a fiveplex or greater.

The proposed BMV would require a 20 foot setback when abutting a residential district from front and side yards and 20 feet from streams, rivers and unprotected lakes. The BMV zone also requires a setback of 10 feet from collectors or MDT maintained road and 39 feet maximum building height.

The proposed BSD zone would require setbacks of 30 feet for front and side corner property lines, 10 feet from the side and 15 feet from the rear for all structures. The district would require a 30 foot setback when abutting a residential or agricultural district and 20 foot setback from streams. The district would also require a 35 foot maximum building height for principal structures and 24 feet for accessory structures.

The proposed RR-1 zone would require setbacks of 15 feet for front and side corner property lines on principal structures 10 feet from the side and 20 feet from the rear. The setbacks for detached structures would be 15 feet from the front and 6 feet from side, side corners and rear property lines. The RR-1 would require a 20 foot setback from streams, rivers and unprotected lakes and a setback of an additional 25 feet when property fronts a county collector or MDT maintained road. The district would also require a 35 foot maximum building height for principal structures and 24 feet for accessory structures.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, greenbelts, zones in which gravel pits are not permitted, signs and parking would likely not impact the reasonable provision of light and air. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts will likely allow for the adequate provision of light and air.

Bulk and dimensional requirements are in place to provide for the adequate provision of light and air. The proposal to add five new zoning use districts

and cross referencing has given consideration to the provisions of light and air.

Finding #5: The proposed amendment was found to have minimal impact on the provision of light and air because bulk and dimensional requirements for the proposed zoning use districts would be applicable, additional setbacks are required for business zones adjacent to residential and sometimes agricultural zones and cross referencing will not impact the adequate provision of light and air.

2. The effect on motorized and non-motorized transportation systems;

As stated above, the Whitefish area has a comprehensive road network that includes State and Federal Highways and County Collectors these include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Blanchard Lake Rd, Monegan Rd, Dillon Rd, Voerman Rd, and Northwoods Dr. The Flathead County Road and Bridge Department indicated no concerns with the proposal and MDT did not provide comments. It is anticipated that the proposed zoning use districts would not impact motorized transportation systems.

The Flathead County Trails Plan Map shows a proposed comprehensive network of trails that will include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Dillon Rd, and Northwoods Dr. Many of these trails are not yet constructed. It is unlikely that the non-motorized transportation system would not be impacted by the proposed district.

Adding the BMV, BMRR, RR-1 and BSD zones to Section 6.13 and requiring special parking conditions would serve to lessen the impact those zones would have on non-motorized transportation. Section 6.13.010(1) states, “*Adequate drainage so that injuries will not be caused to adjacent properties nor will water drain across a public walk.*”

Amendments for cross referencing to the sections regarding use districts, commercial caretaker’s facility, day care center, zones in which gravel pits are not permitted, greenbelts and signs would likely not impact motorized and non-motorized transportation systems. As previously stated, requiring double the size of the underlying district for caretaker’s facility in RR-1 districts has the potential minimize effects on motorized and non-motorized transportation system because allowing a caretaker’s facility on smaller lots has the potential to double the density of the RR-1 zone.

Finding #6: The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The five zoning use district being proposed are intended to mimic the previous City of Whitefish zoning use districts that are being replaced. Therefore comment was sought from the Whitefish Planning Department regarding this proposal. Comment received from the City of Whitefish states, “We commend the county’s efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who’s master development plan is tied in with the former Whitefish districts you are replacing.” It appears based on the City of Whitefish’s comments that the proposed text amendment would be compatible with urban growth in the vicinity of Whitefish.

Finding #7: This proposed text amendment would be compatible with the urban growth in the vicinity of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

4. The character of the district(s) and its peculiar suitability for particular uses;

The proposed use districts are designed to replicate as nearly as possible previous Whitefish zoning. The permitted and conditional uses are nearly identical with the only difference being the change in terminology from the previous Whitefish zones to the proposed County zones. These zones are anticipated being utilized in locations previously zoned by Whitefish and it is therefore unlikely that the proposed zoning use districts would alter the character of the district and its peculiar suitability for particular uses.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker’s facility, day care center, signs and parking would likely not alter the character of the district(s) and its peculiar suitability for particular uses. The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited would likely preserve the character of the RR-1 district. Requiring double the size of the underlying district for caretaker’s facility in RR-1 districts will likely not alter the character of the district in which the RR-1 zone is applied.

Requiring greenbelts when commercial or industrial zones are adjacent to RR-1 zones in addition to other R, RC and RA zones would likely help to preserve the character of the RR-1 district when adjacent to commercial or industrial uses because it would require that a view obscuring fence or dense coniferous hedge be constructed along a common boundary.

Finding #8: The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar

suitability for a particular use because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The proposed districts are designed to replicate as nearly as possible previous Whitefish zoning. The permitted and conditional uses are nearly identical with the only difference being the change in terminology from the previous Whitefish zones to the proposed County zones. The areas previously zoned WBMRR and WBMV under Whitefish on Big Mountain primarily contain resort residential and resort business uses. The proposed County BMRR and BMV zones would allow for uses such as multi-family dwelling, resort dwellings, hotels, motels, ski areas, bars, lounges, taverns, etc. All of these uses currently exist on Big Mountain where BMRR and BMV zones are most likely to be implemented.

The proposed B-2A zone would allow for uses such as automobile sales, bowling alleys, churches, supermarkets, hospitals, professional offices, etc. Many of these uses already exist within the vicinity of Whitefish where this zoning use district would likely be implemented.

The proposed BSD zoning use district would allow for uses such as professional offices, mini storage, etc. These uses already occur in areas that were previously zoned WBSD and will likely be zoned BSD. Adjacent to areas previously zoned WBSD is agricultural and single family dwellings both of which would be allowed within the proposed BSD use district.

The proposed RR-1 zoning use district would allow for uses such as single family dwellings, multi-family dwellings and tourist accommodation units which already occur in areas that were previously zoned WRR-1 and will likely be zoned RR-1. Adjacent to areas previously zoned RR-1 is agricultural and single family dwellings both of which would be allowed within the proposed RR-1 use district.

The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited could help conserve the value of buildings and encouraging the most appropriate use of land throughout the future RR-1 district and neighboring districts. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts will likely not impact the value of buildings and the most appropriate use of land throughout the jurisdictional area in which the RR-1 zone is applied.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, sign and parking would likely not impact the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area. The proposed text amendment would

likely conserve the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Requiring greenbelts when commercial or industrial zones are adjacent to RR-1 zones in addition to other R, RC and RA zones could conserve the value of residential buildings when adjacent to commercial or industrial uses because it would require that a view obscuring fence or dense coniferous hedge be constructed along a common boundary.

Finding #9: The proposed amendment to add new use districts and cross referencing to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The five zones being created are intended to mimic the previous City of Whitefish zoning use districts that are being replaced. Comment was sought from the Whitefish Planning Department regarding this proposal. Comment received from the City of Whitefish states, “We commend the county’s efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who’s master development plan is tied in with the former Whitefish districts you are replacing.”

The BMV zone would mirror the Whitefish WBMV zone, BMRR would mirror WBMRR, B-2A would mirror WB-2, RR-1 would mirror WRR-1 and BSD would mirror WBSD. The definitions for each of the five zoning districts are almost identical to the definitions under Whitefish zoning. The permitted and conditional uses are the same only using slightly different terminology in an effort to match terminology already used in the FCZR. Additionally the bulk and dimensional requirements would be the same. The proposed text amendment would make the zoning regulations, as nearly as possible, compatible with the zoning ordinance of Whitefish.

Finding #10: This proposed text amendment would be, as nearly as possible, compatible with the zoning ordinances of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

V. SUMMARY OF FINDINGS

1. The proposed amendment appears to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposal would add new commercial and residential use districts, other County regulations would serve to protect lakes, streams, wildlife habitat and riparian boundaries, the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.
2. The proposed text amendment appears to not have a negative impact on safety from fire and other dangers because the use districts are intended for areas adjacent to Whitefish, in areas which are located within the Whitefish and Big Mountain Fire Districts, the fire districts would provide services in the event of a fire, not allowing a caretaker's facility on smaller lots than double the minimum lot size within RR-1 zone would eliminate the potential for doubling the density of the RR-1 zone and prohibited gravel pits would likely help secure future RR-1 zones from other dangers.
3. The proposed amendment to the Flathead County Zoning Regulations was found to have minimal impact on public health, public safety and general welfare because the zoning use districts are intended to be located near the City of Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, many of the zoning use districts would require greater setbacks from county collectors and MDT maintained roads, a greater setback would be required from residential uses and a CUP would be required for uses that could be deleterious to the public health or safety.
4. The proposed amendment was found to have minimal impact on transportation, water, sewerage, schools, parks and other public requirements because the Flathead County Road and Bridge Department had no concerns with the proposal, no comment was received from MDT, similar uses and densities to what was previously allowed under Whitefish zoning would be allowed and there has been a decrease in school enrollment for Whitefish schools.
5. The proposed amendment was found to have minimal impact on the provision of light and air because bulk and dimensional requirements for the proposed zoning use districts would be applicable, additional setbacks are required for business zones adjacent to residential and sometimes agricultural zones and cross referencing will not impact the adequate provision of light and air.
6. The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.
7. This proposed text amendment would be compatible with the urban growth in the vicinity of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

8. The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.
9. The proposed amendment to add new use districts and cross referencing to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.
10. This proposed text amendment would be, as nearly as possible, compatible with the zoning ordinances of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations, a review and evaluation by the staff of the Planning Board comparing the proposed zoning text amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM